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February 16, 2010

Mail Stop Petition
Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Attn: Office of Petitions

RE: Bonding of Soft Biological Tissues by Passing High Frequency Electric Current Therethrough
Application no. 10/673,358
Applicants: Boris E. Paton, et al.
Filed: 09/26/2003

Honorable Commissioner for Patents,

On June 1, 2008 the Patent Office issued a Notice of Non-Compliant Amendment to which the applicant failed to respond within the prescribed time limit. However, Applicant never received this document the office of the attorney of record. In response, on April 9, 2010, Applicants filed a Petition to Revive and Response to Notice of Non-Compliance.

After not receiving any response to the Petition to Revive, the Applicants called the Petitions office on February 12 and learned the Petition was dismissed on October 27, 2009. Like the previous Notice of Non-Compliance, the Applicant never received the Decision on Petition; and therefore failed to respond within the prescribed time limit. Applicant cannot ascertain the reason why neither document was received, but is certain of the fact that the abandonment of this application was unwanted and unintentional.

In support of Applicant's argument that the lack of response in both instances was unintentional, attached are two documents showing that Applicant's attorney has two independent systems for reminding of deadlines and documents received. The first report,

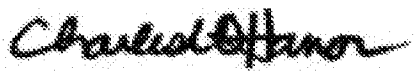
printed from Lexis Nexis Total Practice Advantage, shows a listing of all documents received from the Patent office. Upon receipt, all documents are immediately scanned and saved as PDFs. An electronic database is kept of all documents received, and that report is attached. Page 8 of the report shows a screen shot of the document record relating to the February 9, 2009 communication from the Examiner, for which the application was abandoned when Applicant failed to respond. On the screen shot, it is apparent that the record when the document was scanned and added to the system was not until March 18, 2009 – indicating that that is the day the document was actually received. The last page of the document shows the Decision on Petition, to which the Applicant never responded. It too was not received by Applicant until February 12, 2010 after Applicant's attorney called to check on the status of the Petition to Revive previously filed.

The second report attached is taken from Foundation IP; an independent docketing system used by Applicants attorney to remind of upcoming due dates. It is apparent from that docketing system that there is no record of the February 9, 2009 Office letter from Examiner Cohen or the October 27, 2009 Decision on Petition issued by Examiner Johnson.

Because the failure to respond was completely unintentional, under 37 CFR 137 (b), Applicant respectfully requests that the above-mentioned application be reinstated. To further that end, Applicant has included,

1) This petition;
2) a Response to the June 1, 2008 Notice of Non-Compliant Amendment; and
3) a payment for $810 to cover the required fees.

Respectfully,



Charles W. Hanor
Reg. 27, 132